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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/811,237	03/15/2001	Karapet Ablabutyan	23451-037	8258

7590 07/13/2004

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EXAMINER


KEENAN, JAMES W

ART UNIT PAPER NUMBER

3652

DATE MAILED: 07/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/811,237	ABLABUTYAN ET AL.	
	Examiner	Art Unit	
	James Keenan	3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 and 21-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-19 is/are allowed.
- 6) ☒ Claim(s) 1-14 and 21-51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/9/04 has been entered.

2. Claims 10, 26, and 41-45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 10, last line, the recitation of "the vehicle body" lacks antecedent basis.

In claim 26, line 3, "the pivot member" lacks antecedent basis.

In claim 41, lines 10 and 11, "arms" and "members" should be --arm-- and --member--, respectively;

and line 32, a comma should be inserted after "lift frame".

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1, 4-9, 21-24, 26, 46 and 49-51 rejected under 35 U.S.C. 103(a) as being unpatentable over Dunlop et al (US 5,641,262) in view of Corley, Jr. (US 3,700,123), both previously cited.

Dunlop, as previously noted, shows a liftgate assembly comprising a unitary frame having opposing side plates 3A, 3B and extension plate 5 extending therebetween, hydraulically driven lift frame 81 pivotally attached to the side plates, and liftgate platform 87 rotatably attached to the lift frame, wherein the liftgate is secured to the vehicle body by brackets 7A, 7B in a fully assembled state which is inherently considered to be capable of "freestanding", as shown in figure 6.

Dunlop does not show the platform to be supported at one end only, chains 89 being used to support the outer portion thereof.

Corley shows a substantially similar liftgate assembly wherein platform 31 is pivotally supported at one end only to lift frame 30. Note also stop dogs 57.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Dunlop by supporting the liftgate platform at one end only by utilizing stop dogs instead of chains, as shown by Corley, as this would simply be an art recognized alternate equivalent means of limiting the downward swing of the platform.

Claims 4-9 are treated in the manner set forth in prior Office action, paper #13.

Re claims 21-24, 26, 46 and 49-51, the modified apparatus of Dunlop could obviously be used to perform the method steps set forth.

5. Claims 2-3, 10-14, 25, 27-35, and 47-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunlop et al in view of Corley, Jr., as applied to claims 1, 4-9,

21-24, 26, 46 and 49-51 above, and further in view of Fretwell et al (US 5,556,250, previously cited).

The side plates of Dunlop are attached to the rear of the vehicle body, rather than the underside thereof. The side plates of Corley are attached to the rear of the vehicle body as well as underneath the vehicle, but the attachment underneath the vehicle is to the frame members thereof, not the body.

Fretwell, however, shows a lift platform mounted in a housing M beneath a vehicle body. The housing is bolted to the vehicle with brackets 144. Although the housing is not explicitly stated as being attached to the vehicle body, it appears to be so mounted, or at the very least clearly could be so mounted.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have further modified the apparatus of Dunlop by attaching the side plates underneath the vehicle body rather than to the rear thereof, as suggested by Fretwell, so that most or all of the components would be stored in a safe, out of the way location.

6. Claims 36-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunlop et al in view of Fretwell et al.

This rejection utilizes the same obviousness rationale as set forth in the immediately preceding paragraph, except that the Corley reference is unnecessary since the claims do not require the liftgate platform to be supported at one end only.

Re claim 39, the chains of Dunlop are considered to be a "motion limiting stop".

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7. Applicant's arguments with respect to claims 1-14, 21-40, and 46-51 have been considered but are moot in view of the new ground(s) of rejection.

8. Claims 41-45 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

9. Claims 15-19 are allowed.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Keenan whose telephone number is 703-308-2559. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on 703-308-3248. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
James Keenan

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Primary Examiner  
Art Unit 3652

jwk  
7/8/04